

**40 CFR Part 271****[EPA-R08-RCRA-2022-0485; FRL 9896-02-R8]****North Dakota: Final Authorization of State Hazardous Waste Management Program Revision****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

SUMMARY: The State of North Dakota Department of Environmental Quality (NDDEQ) has applied to the Environmental Protection Agency (EPA) for final authorization of certain changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The EPA has reviewed North Dakota's application and determined that North Dakota's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. EPA is authorizing the State program revision through this direct final rule. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial action and does not anticipate adverse comments. However, in the proposed rules section of this issue of the *Federal Register*, EPA is publishing a separate document that will serve as a proposal to authorize the revision should the Agency receive adverse comment. Unless EPA receives adverse written comments during the review and comment period, the decision to authorize North Dakota's hazardous waste program revision will take effect as provided below.

DATES: This final rule is effective on **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]** unless EPA receives adverse written comment by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Should EPA receive such comments, it will publish a timely document by either: withdrawing the direct final publication or affirming the publication and responding to comments.

ADDRESSES: Submit your comments by one of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Email:* lin.moye@epa.gov.

- *Fax:* (303) 312-6341 (prior to faxing, please notify the EPA contact listed below).
- *Mail, Hand Delivery or Courier:* Moyer Lin, Resource Conservation and Recovery Act Branch, EPA Region 8, Mail Code 8LCR-RC, 1595 Wynkoop Street, Denver, Colorado 80202-1129. Courier or hand deliveries are only accepted during the Regional Office's normal hours of operation. The public is advised to call in advance to verify business hours. Special arrangements should be made for deliveries of boxed information.

Instructions: EPA must receive your comments by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Direct your comments to **EPA-R08-RCRA-2022-0485; FR 9896-02-R8**. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <https://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information where disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <https://www.regulations.gov> or email. The Federal website <https://www.regulations.gov> is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through <https://www.regulations.gov>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption and be free of any defects or viruses.

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information where disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically

through <https://www.regulations.gov>. For alternative access to docket materials, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Moye Lin, Land, Chemicals and Redevelopment Division, EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129; phone number (303) 312-6667; E-mail address: *lin.moye@epa.gov*.

SUPPLEMENTARY INFORMATION:

A. Why are revisions to State programs necessary?

States which have received Final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 268, 270, 273 and 279.

B. What decisions has EPA made in this rule?

On October 29, 2021, the State of North Dakota submitted a final complete program revision application seeking authorization of changes to its hazardous waste program that correspond to certain Federal rules promulgated between July 1, 2016 through June 30, 2020, which includes RCRA Cluster XXV through RCRA Cluster XXVIII (Revision Checklists 236, 237, 238, 239, 240, and 242), as well as State-initiated changes to the State's previously authorized program. The EPA has reviewed North Dakota's application to revise its authorized program and concludes that it meets all of the statutory and regulatory requirements established by RCRA, except for the final rule addressed by Revision Checklist 241 (Management Standards for Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine) (84 FR 5816, February 22, 2019). EPA cannot authorize North Dakota for Revision Checklist 241 because the State has not correctly adopted the Federal changes addressed by this final rule. Therefore, we grant North Dakota final authorization to operate its hazardous waste program with the changes described in the authorization application with

the exception of Revision Checklist 241.

The State of North Dakota will continue to have responsibility for permitting treatment, storage and disposal facilities (TSDFs) within its borders (except in Indian country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, the EPA will implement those requirements and prohibitions in the State of North Dakota, including issuing permits, until the State is granted authorization to do so.

C. What is the effect of this authorization decision?

If the State of North Dakota is authorized for these changes, a facility in North Dakota subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Additionally, such facilities will have to comply with any applicable Federal requirements such as, for example, HSWA regulations issued by the EPA for which the State has not received authorization. The State of North Dakota will continue to have enforcement responsibilities under its State hazardous waste program for violations of such program, but the EPA retains its authority under RCRA sections 3007, 3008, 3013 and 7003, which include, among others, authority to:

- Conduct inspections and require monitoring, tests, analyses, or reports;
- Enforce RCRA requirements and suspend or revoke permits, and
- Take enforcement actions after notice to and consultation with the State.

The action to approve these provisions would not impose additional requirements on the regulated community because the regulations for which the State of North Dakota is requesting authorization are already effective under State law and are not changed by the act of authorization.

D. For what has North Dakota previously been authorized?

North Dakota initially received final authorization on October 5, 1984, effective October 19, 1984 (49 FR 39328) to implement the RCRA hazardous waste management program. We granted

authorization for changes to their program on: June 25, 1990, effective August 24, 1990 (55 FR 25836); May 4, 1992, effective July 6, 1992 (57 FR 19087); April 7, 1994, effective June 6, 1994 (59 FR 16566); January 19, 2000, effective March 20, 2000 (65 FR 02897); September 26, 2005, effective November 25, 2005 (70 FR 56132), February 14, 2008, effective April 14, 2008 (73 FR 8610), October 30, 2018, effective October 30, 2018 (83 FR 64521) and December 19, 2018, effective April 30, 2019 (83 FR 65101, as revised on March 7, 2019, 84 FR 8260).

The EPA incorporated by reference into the Code of Federal Regulations the authorized North Dakota RCRA program on: February 14, 2008, effective April 14, 2008 (73 FR 8610); October 30, 2018, effective October 30, 2018 (83 FR 54521), and December 12, 2019, effective January 13, 2020 (84 FR 67875).

E. What changes is the EPA authorizing with this action?

On October 29, 2021, the State of North Dakota submitted a final complete program revision application, seeking authorization of their changes in accordance with 40 CFR 271.21. We have determined that the North Dakota Department of Environmental Quality's (NDDEQ's) hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. We now make a Final decision, subject to receipt of written comments that oppose this action, that North Dakota's hazardous waste program satisfies all of the requirements necessary to qualify for final authorization. The NDDEQ revisions consist of regulations which specifically govern Federal hazardous waste revisions promulgated between July 1, 2016 through June 30, 2020 (RCRA Clusters XXV through RCRA Cluster XXVIII), as well as State-initiated changes to the State's previously authorized program. The North Dakota provisions are from the North Dakota Administrative Code (N.D.A.C) Article 33.1-24, Hazardous Waste Management Rules, as amended effective through July 1, 2021. We have determined that North Dakota's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. Therefore, we grant North Dakota DEQ final authorization for the following changes:

1. Program revision changes for Federal rules

North Dakota seeks authority to administer the Federal requirements that are listed below (the

Federal rule citation is followed by the analogs from the North Dakota Administrative Code (NDAC), Article 33.1-24, as revised July 1, 2021):

Import and Exports of Hazardous Waste (81 FR 85696, November 28, 2016; 82 FR 41015, August 29, 2017; and 83 FR 38263, August 6, 2018) (Checklist 236)/ 33.1-24-01-04 “AES filing compliance date,” 33.1-24-01-04 “Electronic import-export reporting compliance date”, 33.1-24-01-04 “Recognized trader”, 33.1-24-01-05(7) introductory paragraph, 33.1-24-01-05(7)(a), 33.1-24-01-05(7)(b) [Reserved], 33.1-24-02-04(4)(a), 33.1-24-02-04(4)(d), 33.1-24-02-04(5)(a), 33.1-24-02-04(5)(d), 33.1-24-02-06(1)(c)(1), 33.1-24-02-06(1)(e), 33.1-24-02-25(1)(e)(2), 33.1-24-02-25(1)(e)(5) introductory paragraph, 33.1-24-02-25(1)(e)(5)(a) – (c)(7), 33.1-24-02-25(1)(e)(6), 33.1-24-02-25(1)(e)(9) - (10), 33.1-24-03-01(5), 33.1-24-03-03(5), 33.1-24-03-14(3), 33.1-24-03-17 [Repealed], 33.1-24-03-18 [Repealed], 33.1-24-03-19 [Repealed], 33.1-24-03-20 [Repealed], 33.1-24-03-21 [Repealed], 33.1-24-03-22 [Repealed], 33.1-24-03-23 [Repealed], 33.1-24-03-24 [Repealed], 33.1-24-03-25 [Repealed], 33.1-24-03-30 [Repealed], 33.1-24-03-50(1) – (2), 33.1-24-03-51, 33.1-24-03-52, 33.1-24-03-53(1), 33.1-24-03-53(2)(a) introductory paragraph, 33.1-24-03-53(2)(a)(1) – (13), 33.1-24-03-53(2)(b) – (c), 33.1-24-03-53(2)(d), 33.1-24-03-53(2)(e) – (f), 33.1-24-03-53(2)(g), 33.1-24-03-53(2)(h), 33.1-24-03-53(3) – (4)(b)(14), 33.1-24-03-53(4)(b)(15), 33.1-24-03-53(5), 33.1-24-03-53(6)(a) – (c) introductory paragraph, 33.1-24-03-53(6)(c)(1), 33.1-24-03-53(6)(c)(2), 33.1-24-03-53(6)(d)- (e), 33.1-24-03-53(6)(f) introductory paragraph – (f)(1), 33.1-24-03-53(6)(f)(2), 33.1-24-03-53(6)(g) – (i), 33.1-24-03-53(7) – (9), 33.1-24-03-55 [Removed and replaced], 33.1-24-03-56 [Repealed], 33.1-24-03-57 [Repealed], 33.1-24-03-59 [Repealed], 33.1-24-04-01(4) introductory paragraph, 33.1-24-04-04(1)(b), 33.1-24-04-04(3), 33.1-24-04-04(5)(b), 33.1-24-04-04(6)(b) and Note, 33.1-24-04-04(7), 33.1-24-05-03(1), 33.1-24-05-38(1)(c), 33.1-24-05-230(2), 33.1-24-05-235 Table (a)(6) – (10), 33.1-24-05-720, 33.1-24-05-739(1) – (2), 33.1-24-05-740, 33.1-24-05-756, 33.1-24-05-762(1), 33.1-24-05-770 introductory paragraph – (3), 33.1-24-05-770(4) [Removed], 33.1-24-05-1011(1)(d) – (f), 33.1-24-05-1011(4), 33.1-24-06-16(5);

Hazardous Waste Generator Improvements Rule (81 FR 86732, November 28, 2016) (Checklist 237)/ 33.1-24-01-04(5) “Acute hazardous waste,” 33.1-24-01-04(23) “Central accumulation area,”

33.1-24-01-04(90) “Large quantity generator,” 33.1-24-01-04(107) “Non-acute hazardous waste,” 33.1-24-01-04(134) “Small quantity generator,” 33.1-24-01-04(167) “Very small quantity generator,” 33.1-24-01-05(4)(a), 33.1-24-02-01(1) introductory paragraph – (1)(a), 33.1-24-02-01(3)(f), 33.1-24-02-04(1)(g), 33.1-24-02-05 [Repealed], 33.1-24-02-06(3)(b)(4), 33.1-24-02-18(5) introductory paragraph, 33.1-24-02-18(6) introductory paragraph, 33.1-24-02-129(7), 33.1-24-03-01(1) introductory paragraph – (b)(3), 33.1-24-03-01(1)(b)(4), 33.1-24-03-01(1)(b)(5) – (c)(3), 33.1-24-03-01(1)(c)(4), 33.1-24-03-01(1)(c)(5) – (5), 33.1-24-03-01(11), 33.1-24-03-02, 33.1-24-03-03(1) – (5), 33.1-24-03-03(13), 33.1-24-03-03(14), 33.1-24-03-10(2) – (4), 33.1-24-03-14, 33.1-24-03-16, 33.1-24-03-26, 33.1-24-03-27, 33.1-24-03-28, 33.1-24-03-29, 33.1-24-03-34, 33.1-24-03-61(1) “Central accumulation area” [Removed], 33.1-24-03-61(11) “Trained professional,” 33.1-24-03-62(1) – (2), 33.1-24-03-63(1) – (2), 33.1-24-03-64(1), 33.1-24-03-64 (2)(b), 33.1-24-03-65, 33.1-24-03-69(1)(a) – (b), 33.1-24-03-69(4)(b), 33.1-24-03-70(2), 33.1-24-03-71(4)(b), 33.1-24-03-72(3) – (4), 33.1-24-03-72(5)(c), 33.1-24-03-74(1)(a) – (c), 33.1-24-03-74(2)(b), 33.1-24-03-75(2)(e), 33.1-24-03-77(1) – (2), 33.1-24-04-03, 33.1-24-05-01(6), 33.1-24-05-01(6)(c), 33.1-24-05-06(2)(d), 33.1-24-05-15, 33.1-24-05-16, 33.1-24-05-17, 33.1-24-05-18, 33.1-24-05-19, 33.1-24-05-20, 33.1-24-05-26, 33.1-24-05-27, 33.1-24-05-28, 33.1-24-05-29 introductory paragraph, 33.1-24-05-29(2) – (3), 33.1-24-05-31, 33.1-24-05-32, 33.1-24-05-38(3), 33.1-24-05-42, 33.1-24-05-89, 33.1-24-05-93, 33.1-24-05-104(1), 33.1-24-05-183(1), 33.1-24-05-250(5)(a), 33.1-24-05-56(1)(e), 33.1-24-05-290(1)(a), 33.1-24-05-290(1)(b)(1), 33.1-24-05-400(2)(b) – (c), 33.1-24-05-476(3)(d), 33.1-24-05-610(2)(c), 33.1-24-05-708(1)(b), 33.1-24-05-781(2), 33.1-24-05-875(1), 33.1-24-05-1011(3), 33.1-24-06-16(5);

Confidentiality Determinations for Hazardous Waste Export and Import Document (82 FR 60894, December 26, 2017) (Checklist 238)/ 33.1-24-01-16 introductory paragraph, 33.1-24-01-16(2)(c), 33.1-24-02-25(1)(e)(4), 33.1-24-03-53(2)(e), 33.1-24-03-53(6)(i), 33.1-24-03-55(2)(d), 33.1-24-03-55(6)(h);

Hazardous Waste Electronic Manifest User Fee Rule (83 FR 420, January 3, 2018) (Checklist 239)/ 33.1-24-03-04(7)(a) – (d), 33.1-24-03-04(8), 33.1-24-03-04(1) – (1)(a), 33.1-24-03-05(6)(e) – (h), 33.1-24-03-07(8)(c), 33.1-24-03-07(8)(e), 33.1-24-03-07(8)(g), 33.1-24-04-04(1)(h), 33.1-24-04-

05, 33.1-24-05-38(1)(b) introductory paragraph, 33.1-24-05-38(1)(b)(1) – (6), 33.1-24-05-38(10), 33.1-24-05-38(12), 33.1-24-05-456(3)(d)(1), 33.1-24-05-45, 33.1-24-06-16(5);

Safe Management of Recalled Airbags (83 FR 61552, November 30, 2018) (Checklist 240)/ 33.1-24-01-04(8) “Airbag waste”, 33.1-24-01-04(9) “Airbag waste collection facility”, 33.1-24-01-04(10) “Airbag waste handler”, 33.1-24-02-04(10);

Universal Waste Regulations: Addition of Aerosol Cans (84 FR 67202, December 9, 2019) (Checklist 242)/ 33.1-24-01-04(161) “Universal waste” (c) – (e), 33.1-24-01-04(162) “Universal waste handler” (b)(1), 33.1-24-05-701(1)(c) – (e), 33.1-24-05-01(6)(j)(3) – (5), 33.1-24-06-16(5), 33.1-24-05-250(6)(c) – (e), 33.1-24-05-703(2)(b), 33.1-24-05-706, 33.1-24-05-709(4) “Large quantity handler of universal waste,” 33.1-24-01-04(117) “Pesticide” (a) – (c), 33.1-24-05-709(1) “Aerosol can,” 33.1-24-05-709(5) “Small quantity handler of universal waste,” 33.1-24-05-713(3)(b)(3) – (4), 33.1-24-05-713(5) – (6), 33.1-24-05-732(2)(d), 33.1-24-05-733(3)(b)(3) – (6).

2. State-initiated changes

North Dakota has made amendments to its regulations that are not directly related to any of the Federal rules addressed in Item E.1 above. These State-initiated changes are either conforming changes made to existing authorized provisions or the adoption of provisions that clarify and make the State’s regulations internally consistent. The State’s regulations, as amended by these provisions, provide authority which remains equivalent to and no less stringent than the Federal laws and regulations. These State-initiated changes are submitted under the requirements of 40 CFR 271.21(a) and include the following provisions from the North Dakota Administrative Code (NDAC), Article 33.1-24, as revised July 1, 2021: 33.1-24-01-05(1), and 33.1-24-05-42 introductory paragraph [analogous to 40 CFR 260.11(a) and 264.75 introductory paragraph, respectively].

The State-initiated changes also include a conforming change to an internal reference at the following citation: 33.1-24-02-04(5)(a) [analogous to 40 CFR 261.4(e)(1)].

F. Where are the revised State Rules different from the Federal Rules?

When revised State rules differ from the Federal rules in the RCRA State authorization process, EPA determines whether the State rules are equivalent to, more stringent than, or broader in scope

than the Federal program. Pursuant to RCRA section 3009, 42 U.S.C. 6929, State programs may contain requirements that are more stringent than the Federal regulations. Such more stringent requirements can be federally authorized and, once authorized, become federally enforceable. Although the statute does not prevent States from adopting regulations that are broader in scope than the Federal program, States cannot receive Federal authorization for such regulations, and they are not federally enforceable.

We consider the following State requirements to be more stringent than the Federal requirements: 33.1-24-02-25(1)(e)(6) [analog to 40 CFR 261.39(a)(5)(vi)], 33.1-24-03-53(2)(a) introductory paragraph [analog to 40 CFR 262.83(b)(1) introductory paragraph], 33.1-24-03-53(2)(d) [analog to 40 CFR 262.83(b)(4)], 33.1-24-03-53(2)(g) [analog to 40 CFR 262.83(b)(7)], 33.1-24-03-53(4)(b)(15) [analog to 40 CFR 262.83(d)(2)(xv)], 33.1-24-03-53(5) [analog to 40 CFR 262.83(e)], 33.1-24-03-53(6)(c)(1) [analog to 40 CFR 262.83(f)(3)(i)], 33.1-24-03-53(6)(d) [analog to 40 CFR 262.83(f)(4)], 33.1-24-03-53(6)(e) [analog to 40 CFR 262.83(f)(5)], and 33.1-24-03-53(6)(f)(2) [analog to 40 CFR 262.83(f)(6)(ii)], because North Dakota requires documentation such as manifests be submitted to the State in addition to the EPA; 33.1-24-03-14 [in lieu of analogs to 40 CFR 262.18, 262.41, 262.44], because North Dakota subjects both small and large quantity generators to the biennial reporting requirements where the Federal allows small quantity generators to comply with the less frequent re-notification requirements; and 33.1-24-03-69(1)(a) and (1)(b) [analogs to 40 CFR 262.208(a)(1) and (a)(2)], because North Dakota requires academic labs to remove containers of unwanted material in an interval not to exceed six months rather than 12 as in the Federal program.

There are no requirements that are broader in scope than the Federal program in these revisions.

G. Who handles permits after the authorization takes effect?

The State of North Dakota will continue to issue permits for all the provisions for which it is authorized and will administer the permits it issues. The EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which North Dakota is not yet authorized.

H. How does today's action affect Indian country (18 U.S.C.1151) in North Dakota?

North Dakota is not authorized to carry out its hazardous waste program in Indian country, as defined in 18 U.S.C. 1151. This includes, but is not limited to:

1. Lands within the exterior boundaries of the following Indian Reservations located within or abutting the State of North Dakota:
 - a. Fort Totten Indian Reservation
 - b. Fort Berthold Indian Reservation
 - c. Standing Rock Indian Reservation
 - d. Turtle Mountain Indian Reservation
2. Any land held in trust by the U.S. for an Indian tribe, and
3. Any other land, whether on or off a reservation, that qualifies as Indian country within the meaning of 18 U.S.C. 1151.

Therefore, this program revision does not extend to Indian country where EPA will continue to implement and administer the RCRA program in these lands.

I. What is codification and is the EPA codifying North Dakota's hazardous waste program as authorized in this rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the CFR. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart JJ for this authorization of North Dakota's program changes until a later date. In this authorization application the EPA is not codifying the rules documented in this *Federal Register* document.

J. Administrative Requirements

The Office of Management and Budget (OMB) has exempted this action (RCRA State Authorization) from the requirements of Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). Therefore, this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006, and imposes no additional requirements beyond those imposed by State law. Accordingly, this action will not have a significant

economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this action authorizes preexisting requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely serves to authorize State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA.

This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant, and it does not make decisions based on environmental health or safety risks. This direct final rule is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), the EPA grants a State’s application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for the EPA, when it reviews a State authorization application; to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the “Attorney General’s

Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings” issued under the Executive Order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. Because this rule authorizes pre-existing State rules which are at least equivalent to, and no less stringent than existing Federal requirements, and imposes no additional requirements beyond those imposed by State law, and there are no anticipated significant adverse human health or environmental effects, the rule is not subject to Executive Order 12898.

List of Subjects in 40 CFR Parts 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Incorporation by reference, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: October 11, 2022.

KC Becker,

Regional Administrator, Region 8.

[FR Doc. 2022-22715 Filed: 10/18/2022 8:45 am; Publication Date: 10/19/2022]